



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of

FARWICK ET AL.

Group Art Unit: 1652

Application Serial No.: 09/834,722

Examiner: C. FRONDA

Filed: April 16, 2001

Title: NEW NUCLEOTIDE SEQUENCES WHICH CODE FOR THE mENE GENE

July 11, 2003

\* \* \* \* \*

**DECLARATION OF BIOLOGICAL DEPOSIT  
IN COMPLIANCE WITH THE BUDAPEST TREATY**

Mail Stop Non-Fee Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

I, Thomas A. Cawley, Jr., hereby state as follows:

1. I am an attorney of record for the above-identified patent application, and as such I am authorized to act on behalf of Degussa AG, the assignee of the application.
2. Degussa AG is the assignee of the above-identified patent application as evidenced by an assignment from the inventors to Degussa AG (see enclosed copy).
3. *Escherichia coli* strain Top10/pCR2.1menEint was deposited with the Deutsche Sammlung von Mikroorganismen und Zellkulturen GmbH (DSM) under the terms of the Budapest Treaty on February 23, 2001, and assigned accession no. DSM 14080.
4. DSM is a depository in accordance with the Budapest Treaty for the above-deposited cultures. Should the cells mutate, become non-viable, non-functional, or be inadvertently destroyed, the assignee will replace such cells for at least thirty years from the date of the original deposit, or for at least five years from the date of the most recent request for release of a sample, or for the enforceable life of any patent issued on the above-identified application, whichever period is longest.

5. The deposits have been made under conditions of assurance of (a) ready accessibility thereto by the public if an enforceable patent is granted whereby all restrictions to the availability to the public of the cell lines so deposited will be irrevocably removed upon the granting of the patent, and (b) access to the cell lines will be available during pendency of the patent application to one determined by the Commissioner of Patents and Trademarks to be entitled thereto under applicable statutes and regulations.
6. All statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Degussa AG

By



Thomas A. Cawley, Jr., Ph.D.  
Registration No.: 40,944  
Attorney for Applicants  
Direct No.: 703-905-2144

TAC\GP

Pillsbury Winthrop LLP  
1600 Tysons Boulevard  
McLean, VA 22102

Telephone: 703-905-2000  
Facsimile: 703-905-2500

Please return signed/recorderd to:

Pillsbury Winthrop, LLP  
Intellectual Property Group  
1100 New York Avenue, NW  
Ninth Floor  
Washington, DC 20005-3918

USA Patent Appln.  
Sole or Joint

For inventions made outside USA  
executed with or after application

Atty. Dkt. P 280112 000551BT

M#

Client Ref.

NONPROVISIONAL

ASSIGNMENT  
OF NONPROVISIONAL APPLICATION

NONPROVISIONAL

In consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration paid to each of the undersigned, to wit:

INSERT  
NAME(S) OF  
INVENTOR(S)

(1) Mike FARWICK	(2) Klaus HUTHMACHER
(3) Achim MARX	(4) Walter PFEFFERLE
(5)	<input type="checkbox"/> x box if continued on page 2

the receipt and sufficiency of which are hereby acknowledged by the undersigned who at the request of, hereby sell(s), assign(s) and transfer(s) unto:

INSERT  
NAME(S) OF  
ASSESSOR(S)  
& ADDRESS(ES)

Degussa AG, Benningsenplatz 1, DE-40474 Düsseldorf, GERMANY

(hereinafter designated "ASSESSOR") the entire right, title and interest for the United States of America as defined in 35 U.S.C. 100, in the invention and all applications including any and all divisions, continuations, substitutes, and reissues thereof; and all resulting patents, known as

TITLE OF  
INVENTION

Neue für das menE-Gen kodierende Nukleotidsequenzen

for which the undersigned executed an application for Letters Patents of the United States of America:

NOTE → →  
(Complete  
line A, B and/or C)

(A)  even date herewith  
(B)  on \_\_\_\_\_  
(C)  in U.S. Appln. No. 09/834,722

filed April 16, 2001

AND the undersigned hereby authorize(s) and request(s) the United States Commissioner of Patents and Trademarks to issue said Letters Patent to the said ASSESSOR, for its interest as ASSESSOR, its successors, assigns and legal representatives; the undersigned agree(s) that the attorney of record in said application shall hereinafter act on behalf of said ASSESSOR;

AND the undersigned hereby agree(s) to testify and execute any papers for ASSESSOR, its successors, assigns and legal representatives, deemed essential by ASSESSOR to ASSESSOR'S full protection and title in and to the invention hereby transferred.

NOTE → → The undersigned hereby authorize(s) Pillsbury Winthrop LLP of the above address to insert hereon any further identification necessary or desirable for recordation of this document.

1):  
Name: Mike FARWICK  
2):  
Name: Klaus HUTHMACHER  
3):  
Name: Achim MARX  
4): Name:  
Name: Walter PFEFFERLE  
5): Name:  
Name:

DATE SIGNED  
05/14/01  
05/18/01  
05/15/01  
05/19/2001

WITNESSES  
Birgit Schöwerling  
Elge Froehling  
Claudius Wege  
Michael Farwick

BUDAPEST TREATY ON THE INTERNATIONAL  
RECOGNITION OF THE DEPOSIT OF MICROORGANISMS  
FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

Degussa AG  
Kantstr. 2  
33790 Halle/Künsebeck

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT  
issued pursuant to Rule 7.1 by the  
INTERNATIONAL DEPOSITORY AUTHORITY  
identified at the bottom of this page

<b>I. IDENTIFICATION OF THE MICROORGANISM</b>	
Identification reference given by the DEPOSITOR: <b>Top 10/pCR2.1menEint</b>	Accession number given by the INTERNATIONAL DEPOSITORY AUTHORITY: <b>DSM 14080</b>
<b>II. SCIENTIFIC DESCRIPTION AND/OR PROPOSED TAXONOMIC DESIGNATION</b>	
The microorganism identified under I. above was accompanied by:  ( <input checked="" type="checkbox"/> ) a scientific description ( <input checked="" type="checkbox"/> ) a proposed taxonomic designation  (Mark with a cross where applicable).	
<b>III. RECEIPT AND ACCEPTANCE</b>	
This International Depository Authority accepts the microorganism identified under I. above, which was received by it on <b>2001-02-23</b> (Date of the original deposit) <sup>1</sup> .	
<b>IV. RECEIPT OF REQUEST FOR CONVERSION</b>	
The microorganism identified under I. above was received by this International Depository Authority on (date of original deposit) and a request to convert the original deposit to a deposit under the Budapest Treaty was received by it on (date of receipt of request for conversion).	
<b>V. INTERNATIONAL DEPOSITORY AUTHORITY</b>	
Name: <b>DSMZ-DEUTSCHE SAMMLUNG VON MIKROORGANISMEN UND ZELLKULTUREN GmbH</b>  Address: <b>Mascheroder Weg 1b D-38124 Braunschweig</b>	Signature(s) of person(s) having the power to represent the International Depository Authority or of authorized official(s):   Date: <b>2001-02-26</b>

<sup>1</sup> Where Rule 6.4 (d) applies, such date is the date on which the status of international depository authority was acquired.

BUDAPEST TREATY ON THE INTERNATIONAL  
RECOGNITION OF THE DEPOSIT OF MICROORGANISMS  
FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

Degussa AG  
Kantstr. 2  
33790 Halle/Künsebeck

VIABILITY STATEMENT  
issued pursuant to Rule 10.2 by the  
INTERNATIONAL DEPOSITORY AUTHORITY  
identified at the bottom of this page

I. DEPOSITOR	II. IDENTIFICATION OF THE MICROORGANISM
Name: Degussa AG Kantstr. 2 Address: 33790 Halle/Künsebeck	Accession number given by the INTERNATIONAL DEPOSITORY AUTHORITY: DSM 14080  Date of the deposit or the transfer <sup>1</sup> : 2001-02-23
III. VIABILITY STATEMENT	
The viability of the microorganism identified under II above was tested on 2001-02-23 <sup>2</sup> . On that date, the said microorganism was	
<input checked="" type="checkbox"/> <sup>3</sup> viable <input type="checkbox"/> <sup>3</sup> no longer viable	
IV. CONDITIONS UNDER WHICH THE VIABILITY TEST HAS BEEN PERFORMED <sup>4</sup>	
V. INTERNATIONAL DEPOSITORY AUTHORITY	
Name: DSMZ-DEUTSCHE SAMMLUNG VON MIKROORGANISMEN UND ZELLKULTUREN GmbH  Address: Mascheroder Weg 1b D-38124 Braunschweig	Signature(s) of person(s) having the power to represent the International Depository Authority or of authorized official(s):   Date: 2001-02-26

<sup>1</sup> Indicate the date of original deposit or, where a new deposit or a transfer has been made, the most recent relevant date (date of the new deposit or date of the transfer).

<sup>2</sup> In the cases referred to in Rule 10.2(a) (ii) and (iii), refer to the most recent viability test.

<sup>3</sup> Mark with a cross the applicable box.

<sup>4</sup> Fill in if the information has been requested and if the results of the test were negative.